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SENATE BILL 225

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Leonard Tsosie

AN ACT

RELATING TO HEALTH AND SAFETY; CLARIFYING PROVISIONS OF THE
SAFE HAVEN FOR INFANTS ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 24-22-1 NMSA 1978 (being Laws 2001,
Chapter 31, Section 1 and Laws 2001, Chapter 132, Section 1) is
amended to read:

"24-22-1. SHORT TITLE. -- [~~Sections 1 through 8 of this
act]~~ Chapter 24, Article 22 NMSA 1978 may be cited as the "Safe
Haven for Infants Act". "

Section 2. A new section of the Safe Haven for Infants
Act is enacted to read:

"[NEW MATERIAL] PURPOSE. -- The purpose of the Safe Haven
for Infants Act is to promote the safety of infants and to
immunize a parent from criminal prosecution for leaving an

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1 infant, ninety days of age or less, at a hospital. This act is
2 not intended to abridge the rights or obligations created by
3 the federal Indian Child Welfare Act of 1978 or the rights of
4 parents. "

5 Section 3. Section 24-22-2 NMSA 1978 (being Laws 2001,
6 Chapter 31, Section 2 and Laws 2001, Chapter 132, Section 2) is
7 amended to read:

8 "24-22-2. DEFINITIONS. -- As used in the Safe Haven For
9 Infants Act:

10 A. "hospital" means an acute care general hospital
11 or health care clinic licensed by the state;

12 B. "Indian child" means an ~~[infant who is the~~
13 ~~biological child of an enrolled member of an Indian nation,~~
14 ~~pueblo or tribe]~~ Indian child as defined by the federal Indian
15 Child Welfare Act of 1978;

16 C. "infant" means a child no more than ninety days
17 old, as determined within a reasonable degree of medical
18 certainty; and

19 D. "staff" means an employee, contractor, agent or
20 volunteer performing services as required and on behalf of the
21 hospital. "

22 Section 4. Section 24-22-3 NMSA 1978 (being Laws 2001,
23 Chapter 31, Section 3 and Laws 2001, Chapter 132, Section 3) is
24 amended to read:

25 "24-22-3. LEAVING AN INFANT. --

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1 A. A person may leave an infant with the staff of a
2 hospital without being subject to criminal prosecution for
3 abandonment or abuse if the infant was born within ninety days
4 of being left at the hospital, as determined within a
5 reasonable degree of medical certainty, and if the infant is
6 left in a condition that would not constitute abandonment or
7 abuse of a child pursuant to Section 30-6-1 NMSA 1978.

8 B. A hospital may ask the person leaving the infant
9 for the name of the infant's biological father or biological
10 mother, the infant's name and the infant's medical history, but
11 the person leaving the infant is not required to provide that
12 information to the hospital.

13 C. The hospital is deemed to have received consent
14 for medical services provided to an infant left at a hospital
15 in accordance with the provisions of the Safe Haven for Infants
16 Act or in accordance with procedures developed between the
17 children, youth and families department and the hospital."

18 Section 5. Section 24-22-4 NMSA 1978 (being Laws 2001,
19 Chapter 31, Section 4 and Laws 2001, Chapter 132, Section 4) is
20 amended to read:

21 "24-22-4. HOSPITAL PROCEDURES. --

22 A. A hospital shall accept an infant who is left at
23 the hospital in accordance with the provisions of the Safe
24 Haven for Infants Act.

25 B. In conjunction with the children, youth and

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1 families department, a hospital shall develop procedures for
2 appropriate staff to accept and provide necessary medical
3 services to an infant left at the hospital and to the person
4 leaving the infant at the hospital, if necessary.

5 C. Upon receiving an infant who is left at a
6 hospital in accordance with the provisions of the Safe Haven
7 for Infants Act, the hospital may provide the person leaving
8 the infant with:

9 (1) information about adoption services,
10 including [~~information about~~] the availability of
11 [~~confidential~~] private adoption services;

12 (2) brochures or telephone numbers for
13 agencies that provide adoption services or counseling services;
14 and

15 (3) written information regarding [~~who~~] whom
16 to contact at the children, youth and families department if
17 the parent decides to seek reunification with the infant.

18 [~~D. No later than twenty-four hours~~]

19 D. A hospital shall ask the person leaving the
20 infant whether the infant has a parent who is either a member
21 of an Indian tribe or is eligible for membership in an Indian
22 tribe, but the person leaving the infant is not required to
23 provide that information to the hospital.

24 E. Immediately after receiving an infant in
25 accordance with the provisions of the Safe Haven for Infants

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1 Act, a hospital shall inform the children, youth and families
2 department that the infant has been left at the hospital. The
3 hospital shall provide the children, youth and families
4 department with all available information regarding the child
5 and the parents, including the identity of the child and the
6 parents, the location of the parents and the child's medical
7 records. "

8 Section 6. Section 24-22-5 NMSA 1978 (being Laws 2001,
9 Chapter 31, Section 5 and Laws 2001, Chapter 132, Section 5) is
10 amended to read:

11 "24-22-5. RESPONSIBILITIES OF THE CHILDREN, YOUTH AND
12 FAMILIES DEPARTMENT. --

13 A. The children, youth and families department
14 shall be deemed to have [~~immediate~~] emergency custody of an
15 infant who has been left at a hospital according to the
16 provisions of the Safe Haven for Infants Act.

17 B. Upon receiving a report of an infant left at a
18 hospital pursuant to the provisions of the Safe Haven for
19 Infants Act, the children, youth and families department shall
20 ~~immediately~~ conduct an investigation, pursuant to the
21 provisions of the Abuse and Neglect Act.

22 C. When an infant is taken into custody by the
23 children, youth and families department, the department shall
24 make reasonable efforts to determine whether the infant is an
25 Indian child. If the infant is an Indian child, pre-adoptive

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1 placement and adoptive placement of the Indian child shall be
2 in accordance with the provisions of Section 32A-5-5 NMSA 1978
3 regarding Indian child placement preferences.

4 D. The children, youth and families department
5 shall perform public outreach functions necessary to educate
6 the public about the Safe Haven for Infants Act, including
7 developing literature about that act and distributing it to
8 hospitals.

9 E. An infant left at a hospital in accordance with
10 the provisions of the Safe Haven for Infants Act shall
11 presumptively be deemed eligible and enrolled for medicaid
12 benefits and services. "

13 Section 7. Section 24-22-7 NMSA 1978 (being Laws 2001,
14 Chapter 31, Section 7 and Laws 2001, Chapter 132, Section 7) is
15 amended to read:

16 "24-22-7. PROCEDURE IF REUNIFICATION IS SOUGHT. --

17 A. A person established as a parent of an infant
18 previously left at a hospital shall have standing to
19 participate in all proceedings regarding the child pursuant to
20 the provisions of the Abuse and Neglect Act.

21 ~~[A.]~~ B. If a person not previously established as a
22 parent seeks reunification with ~~[the]~~ an infant previously left
23 at ~~[the]~~ a hospital and the person's DNA ~~[matches the infant's~~
24 DNA] indicates parentage of the infant, that person shall have
25 standing to participate in all proceedings regarding the infant

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1 pursuant to the provisions of the Abuse and Neglect Act.

2 ~~[B. There shall be no presumption of abuse or~~
3 ~~neglect against a person seeking reunification pursuant to~~
4 ~~Subsection A of this section provided that the person seeks~~
5 ~~reunification within thirty days of the date the infant was~~
6 ~~left at a hospital in accordance with the provisions of the~~
7 ~~Safe Haven for Infants Act.]"~~

8 Section 8. REPEAL. -- Section 24-22-6 NMSA 1978 (being Laws
9 2001, Chapter 31, Section 6 and Laws 2001, Chapter 132, Section
10 6) is repealed.